

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JAMES W. SWAYNE,)	
)	Civil Action
Plaintiff)	No. 10-cv-03969
)	
vs.)	
)	
MOUNT JOY WIRE CORPORATION,)	
)	
Defendant)	

O R D E R

NOW, this 21st day of March, 2011, upon consideration
of the following documents:

- (1) Motion to Dismiss Complaint Pursuant to Federal Rule of Civil Procedure 12(b)(6), which motion was filed August 17, 2010 by defendant;
- (2) Plaintiff's Opposition to Defendant's Motion to Dismiss Plaintiff's Complaint Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, which brief in opposition was filed September 15, 2010; and
- (3) Defendant's Reply to Plaintiff's Opposition to Defendant's Motion to Dismiss Complaint Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, which reply was filed November 19, 2010;

and for the reasons articulated in the accompanying Opinion,

IT IS ORDERED that motion is granted in part,
dismissed in part as moot, and denied in part.

IT IS FURTHER ORDERED that the motion is granted to
the extent it seeks dismissal of the defamation claim set
forth in Count I as untimely.

IT IS FURTHER ORDERED that Count I of plaintiff's Complaint is dismissed without prejudice for plaintiff to replead his defamation claim in accordance with the accompanying Opinion.

IT IS FURTHER ORDERED that to the extent the motion seeks dismissal of Count I for failure to state a claim for defamation under Pennsylvania law, the motion is dismissed as moot.

IT IS FURTHER ORDERED that the motion is granted to the extent it seeks dismissal of Count II.

IT IS FURTHER ORDERED that Count II of plaintiff's Complaint is dismissed with prejudice.

IT IS FURTHER ORDERED that the motion is denied to the extent it seeks dismissal of Count III.

IT IS FURTHER ORDERED that plaintiff shall have until April 20, 2011 to file an amended complaint consistent with the accompanying Opinion. In the event plaintiff does not file an amended complaint by April 20, 2011, defendant shall have until May 2, 2011 to answer Count III of plaintiff's Complaint.

BY THE COURT:

/s/ James Knoll Gardner
James Knoll Gardner
United States District Judge